IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.09.2007

CORAM:

THE HON'BLE MR.JUSTICE M.CHOCKALINGAM

W.P.NO.30517 OF 2004
and
WP.MP.NO.43669 OF 2005

E.Kamal Santhosh
Ex-Police Constable .... Petitioner

Vs.

1.The Commandant,
Tamil Nadu Special Police II Battalion,
Avadi, Chennai 54.
2.The Deputy Inspector General of Police,
Armed Police,
Chennai-10.
3.The Inspector General of Police,
Armed Police,
Trichy.
4.The Director General of Police
Chennai-4. ...Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorarified Mandamus as stated within.

For Petitioner: Ms. Sudha Ravi
For Respondents: Mr.N.Senthil Kumar
Additional Govt. Pleader

O R D E R

The petitioner has filed the above writ petition praying to issue a writ of Certiorarified Mandamus to call for the records relating to the orders of the first respondent herein passed in his proceedings No.P.R.29/2003 dated 9.12.2003 and proceedings C.No.D2/PR29/2003, B.O.836/2003 dated 25.12.2003 imposing a punishment of removal from service and further consequential order passed by the second respondent herein in his proceedings C.No.B2/2415/2004 dated 16.3.2004 confirming the orders of the first respondent herein and rejecting his appeal petition and further consequential order passed

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by the third respondent herein in his proceedings Rc.No.Estt.I(2)/ 5617/IGF/2004 dated 2.6.2004 rejecting his review petition and further consequential orderpassed by the fourth respondent herein in his proceedings Rc.No.P.R.III(1)/1777400/2004 dated 8.9.2004 and quash the same and direct the first respondent to reinstate him in service with all consequential monetary and service benefits.

2. The affidavit filed in support of the writ petition is perused.

3. The Court heard the learned counsel on either side.

4. Concededly, the petitioner joined the police services as Grade II Police Constable on 24.5.1999 . He was sent on other duty to the office of the Superintendent of Police,CBCID, Chennai. He was placed under suspension by order dated 28.8.2003 stating that an enquiry into grave charges against him was contemplated and a charge memo in P.R.No.29/2003 under Rule 3(b) dated 22.9.2003 by the Commandant, Tamil Nadu Special Police II Battalion, Avadi, Chennai was served upon him stating that two charges were levelled against him viz.,(i) that he absented for duty at 20.00 hrs. on 21.8.2003 and reported by late at 21.30 hours on that date and (ii) that he consumed liquor while reporting for duty by late at 21.30 hours on 21.8.2003. Not satisfying with the explanation tendered by the petitioner, an enquiry officer was appointed for conducting enquiry and some witnesses were also examined during enquiry. The enquiry officer found that the charges levelled against the petitioner are proved. The first respondent had passed final orders imposing a punishment of removal from service on 9.12.2003 and the consequential order of the first respondent was passed on 25.12.2003. The petitioner has preferred an appeal to the Deputy Inspector General of Police,Armed Police, Chennai on 31.12.2003 . But the second respondent has rejected the appeal. Against which, the petitioner preferred a review petition and the same was dismissed by the Inspector General of Police, Armed Police, Trichy, Thereafter, he preferred a mercy petition to the Director General of Police, Chennai and the same was also dismissed. Under such circumstances, this writ petition has been brought forth before this Court.

5.. The only contention put forth by the learned counsel for the petitioner is that two charges were framed against the petitioner. In so far as the first charge was concerned, instead of reporting duty on 21.8.2003 at 10 a.m., he has reported duty at 10.15 a.m. and hence a delay of 15 minutes has occassioned which should have been excused. In so far as the second charge is concerned, he did not take any liquor, but only the medicines which he took smelt of alcohol and hence the allegation that he was in the drunken mood is baseless. Hence, the authority should have considered the review application and the punishment imposed has got to be sympathetically viewed and the

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petitioner has to be put in service.

6. The Court heard the learned counsel for the respondents.

7.After hearing the rival submissions made, this Court is unable to see any merit in this writ petition. It is not in controversy that two charges were levelled against the petitioner. viz. He reported for duty on 21.8.2003 with a delay of 15 minutes late . Even assuming that there was a delay of 1½ hours delay as put forth by the department or 15 minutes late as put forth by the delinquent, it cannot be viewed as a serious one and such a punishment of termination was not called for. But, in so far as the second charge is concerned, he consumed liquor and joined duty, that too when he is in police service, cannot be excused. Hence, this Court is of the considered opinion that the conduct of the petitioner is highly improper, which in the opinion, does not warrant any consideration by this Court. Hence, the writ petition is dismissed. No costs. Consequently, WP.MP.No.43669 of 2005 is also dismissed.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

VJY
To

1.The Commandant,
Tamil Nadu Special Police II Battalion,
Avadi, Chennai 54.
2. he Deputy Inspector General of Police,
Armed Police,
Chennai-10.
3. The Inspector General of Police,
Armed Police,
Trichy.
4.The Director General of Police
Chennai-4.

+1cc to Govt. Pleader 57544
+1cc to M/s.Sudha Ravi Associates Sr 57357

KM (CO)
km/5.10.

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